

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7121 of 2020

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1. Dr. Kawita Kumari Wife of Dr. Vibhash Kumar Yadav, Resident of Ram Govind Enclave Apartment, Flat No. 101 C, Punaichak, District-Patna, Pin Code-800023.
 2. Dr. Shabnam Verma, Wife of Shri Sanjay KUMar Sahay, Resident of Waliganj Ara, P.O.-Arrah, District-Bhojpur, Pin Code-802301

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
2. Chancellor of Universities of Bihar, Raj Bhawan, Patna.
3. Veer Kunwar Singh University, Ara through its Registrar
4. Vice Chancellor, Veer Kunwar Singh University, Ara.
5. Registrar, Veer Kunwar Singh University, Ara.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Abhinav Shrivastava, Adv. Mr. Pushkar Bharadwaj, Adv.
For the State	:	Mr. Prabhakar Jha, G.P.-27 Mr. Shankar Kumar Thakur, AC to GP-27
For the respondent nos.3 to 5 :	:	Mr. Rajesh Prasad Choudhary, Adv.

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 18-03-2024

Heard learned counsels for the parties.

2. The present writ application has been filed with a prayer for grant of the following reliefs:

1) Issuance of a direction, order or writ, including writ in the nature of certiorari quashing that part of advertisement no. 01/2020 dated 21/05/2020 issued by the concerned authorities under Veer Kunwar Singh University, Ara (hereinafter referred to as "the University"), by which the applications have been invited from



eligible candidates for consideration of their cases for appointment against the posts of Assistant Professors in B.Ed. Course offered under the University under the self-financing scheme, against which posts, the petitioners have been continuously discharging their duties since 2007 itself.

II) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the University to refrain from considering cases of candidates for appointment against the posts of Assistant Professors in the B.Ed. Course against which the present petitioners have been continuously discharging their duties pursuant to their appointments as such on temporary basis in the year 2007 itself.

III) Issuance of a direction, order or writ, including writ in the nature of mandamus commanding the concerned respondent authorities under the University to allow the petitioners to continue in the capacity of Assistant Professors in the B.Ed. Course offered by the University under the self-financing scheme till the time are taken for filling up the said posts on substantive basis.

(iv) Any other relief/reliefs that the petitioners may be found to be entitled to in the facts and circumstances of the present case.

3. Learned counsel for the petitioners submits that in the



year 2006, an advertisement was issued by the concerned authorities under the University, by which posts of Principal and Lecturers were advertised. The appointment of Principal and Lecturers were to be made on temporary basis, which was likely to be made permanent after obtaining concurrence from the erstwhile Bihar State University (Constituent Colleges) Service Commission, Patna. Pursuant to the aforesaid advertisement issued by the concerned authorities under the University, the petitioners had also submitted their applications in the prescribed manner for consideration of their cases for appointment against the posts of Lecturers in the B.Ed. Course to be offered by the University and participated in the process of selection conducted by the University.

4. It is further submitted that vide letter dated 16.09.2006 issued by the then Vice Chancellor of the University, the petitioners were informed that they had been selected for appointment in the capacity of Lecturers in B.Ed. Course on the basis of their performance in the interview conducted by the University. As the names of the petitioners for appointment were recommended for appointment as temporary Lecturers, they were instructed to submit their joining in the University within the prescribed period. The petitioners submitted their joining in



the capacity of Lectureres in the B.Ed. Course in the year 2007, and thereafter, they started discharging their duties in the capacity of Lecturers in the B.Ed. Course offered by the University in accordance with law. Later on, the contract appointment of the petitioners were extended from time to time by the University.

5. It is further submitted that all of a sudden, a notice dated 20.05.2020 was issued by the University, by which a number of posts of Assistant Professors in different courses under the self-financing mode offered by the University were advertised and applications were invited from eligible candidates, inter alia, by Clause-III of the said advertisement, 15 posts of Assistant Professors in different branches of Education were advertised, which also included the posts against which the present petitioners have been continuously discharging their duties for a period of over 13 years.

6. It is well-settled tenant of law that an ad-hoc or temporary employee should not be replaced by another ad-hoc or temporary employee and he or she must be replaced by a regularly selected employees and this is necessary to avoid arbitrary action on the part of the appointing authority.

7. In view of the above, the petitioners submitted a



detailed representation dated 23.05.2020 before the concerned authorities under the University, but no action was taken by the concerned authorities. Thereafter, they submitted a detailed representation dated 04.06.2020 before the Hon'ble Chancellor of Universities requesting therein that the necessary steps be taken towards directing the concerned authorities to cancel advertisement no. 01/2020 and further for issuing necessary directions for allowing continuance of the services of the present petitioners in the capacity of Lecturers/Assistant Professors in the B.Ed. Course under the Department of Education of the University. Despite submission of the aforesaid representation by the petitioners, till date no heed was paid in this regard.

8. Learned counsel for the University has filed counter-affidavit in the present case stating therein that the University has to follow the guidelines issued by the National Council for Teachers Education from time to time with regard to the appointment of teaching and non-teaching employees in the B.Ed. Course offered by the University under the self financing mode and as per the guidelines of the NCTE, if the appointments are not made on regular/full time basis, the NCTE will not grant further recognition to the B.Ed. course run by the



University.

9. It is further submitted that it is incorrect to say that the university is going to replace one set of contract employees with another set of adhoc/contract employees. It is evident from the advertisement of the University itself that the appointments are going to be made on full time/regular basis and not on contract/adhoc basis. He further submits that since 09.07.2020, no appointment has been made, therefore, the Student-Teacher ratio is not being maintained and as such, there is threat of withdrawing the recognition by the National Counsel for Teacher Education. In this regard, even show cause notice has also been issued by NCTE and therefore, it is necessary to appoint the teachers for imparting B.Ed. education. In failure to maintain the student-teacher ratio, the B.Ed. Course and other vocational course of the University will be closed.

10. In view of the aforesaid discussions, I deem it proper to set aside the advertisement no. 01/2020 dated 21.05.2020 issued by the concerned authorities under Veer Kunwar Singh University, Ara (Annexure-13) and to grant liberty to the University to appoint the Lecturers/Assistant Professors in the B.Ed. Course under the Department of Education of the University after issuing a fresh notification. It goes without



saying that the persons who are already engaged in imparting education to the students in the University shall not be removed till the fresh appointment process is not completed.

11. Considering the facts aforesaid, this writ application is disposed of.

(Anjani Kumar Sharan, J)

divyanshi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.03.2024
Transmission Date	NA

